

CAF B 006

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27 CE/CED  
506 N. DL Ingram Blvd  
Cannon AFB, NM 88103-5136  
(505) 784-4495

# Explosive Ordnance Disposal

June 28, 2000

State of New Mexico  
Environment Department Hazardous & Radioactive  
Materials Bureau  
Chief of HRMB, Mr. James P. Bearzi (505) 927-1567  
2044 Galisteo  
Santa Fe, NM 87502



Dear Sir:

I would like to bring this organization into compliance with the Federal Law Military Munitions Rule (MMR). This military emergency response team is frequently requested by official state and local civil authorities to respond during crisis situations to mitigate hazardous chemical and explosive incidents. A Memorandum of Understanding (MOU) is required to meet the intent of the law.

In consulting with Base Civil Engineer Waste Program Manager, Mrs. Vera A. Wood (505) 784-1097. This document has been routed through the Regional Environmental Coordinator, EPA Region VI, Edward Lopez (214) 767-4648 and coordinated by the senior military officer or DoD civilian responsible for environmental and public affairs within your region. This routing will need to include State of New Mexico Environment Department Hazardous & Radioactive Materials Bureau NMED HRMB, Mr. James P. Bearzi (505) 927-1567. Please review and advise this unit of your standing on the MMR. I am not certain that the signature authority is the individual listed above, but I have had correspondence through Vera Wood with the office.

I understand that New Mexico has not promulgated this rule yet and that the EPA has delegated primacy to run the programs to the states. I want to ensure we meet any additional requirements that are above the stringent rules that the military follows at present. I do hope this will not preclude you from entering an agreement that affects actions within your state.

We are here to protect human life, property and cause no undue damage to the environment.

Sincerely,

PAUL M. SCHMITT, MSgt, USAF  
Flight Chief, Explosive Ordnance Disposal

*Initial Success or Total failure*



DEPARTMENT OF THE AIR FORCE  
AIR FORCE CENTER FOR ENVIRONMENTAL EXCELLENCE  
REGIONAL ENVIRONMENTAL OFFICE  
525 SOUTH GRIFFIN STREET, SUITE 505  
DALLAS TEXAS 75202-5023

1 June 2000

MEMORANDUM FOR 27 CE/CED

506 N. DL Ingram Blvd  
Cannon AFB, NM 88103-5003  
(Attn: MSgt Schmitt)

FROM: AFCEE/CCR-D

SUBJECT: EOD Memoranda of Understanding with Texas and New Mexico Civil Authorities  
to provide off-base EOD Support

I have signed the proposed Memoranda of Understanding (MOUs) between Cannon AFB, NM and various civil authorities in New Mexico and Texas. The MOUs are being returned for the further coordination with the other identified signatories to the MOUs by the senior EOD official at Cannon AFB according to the provisions of the Department of Defense Policy to Implement the EPA's Military Munitions Rule, Chapter 9, paragraph A.10.a(1) (1 July 1998).

Please review the attached memorandum prepared by our Regional Counsel that more fully describes the present limitations affecting these MOUs. In particular, note that Cannon AFB should review the agreements and update them appropriately if and when New Mexico and Texas adopt EPA's Military Munitions Rule. In addition, it is recommended that the printed name of each signatory be added adjacent to or beneath the signature.

Should you have any questions concerning this action, please contact Mr. Ron Jahns of my office at (214) 767-4648.

A handwritten signature in black ink, appearing to read "Edward Lopez", written over a horizontal line.

EDWARD LOPEZ  
DoD Regional Environmental Coordinator,  
Region VI

Atch  
AFLSA/JACE-CR Memorandum dated 31 May 2000



DEPARTMENT OF THE AIR FORCE  
AIR FORCE LEGAL SERVICES AGENCY

31 May 2000

MEMORANDUM FOR AFCEE/CCR-D

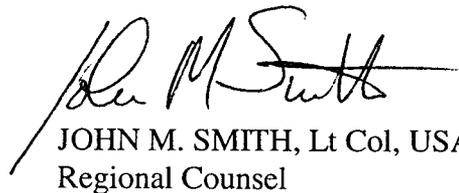
FROM: AFLSA/JACE-CR

SUBJECT: Review of Proposed MOUs for EOD Support at Cannon AFB, NM

I have reviewed the proposed Memorandums of Understanding between Cannon AFB, NM and various civil authorities in New Mexico and Texas. These memoranda are endorsed under the provisions of AFI 10-802, ¶11.2 (25 Feb 94) and AFI 32-3001, ¶2.3.2 (1 June 1998) in order for Air Force facilities and personnel to support requests from civil authorities to engage in explosive ordinance disposal (EOD) activities off base.

These memoranda have been drafted consistent with the guidance set forth in the Military Munitions Rule (MMR) as promulgated by EPA on 12 Feb 1997 (62 Fed. Reg. 6621-6657). Both of the states that Cannon proposes to enter into these agreements with are delegated states<sup>1</sup> under the provisions of RCRA, but they have not adopted the portions of 40 CFR Parts, 260-266 and 270 which comprise the MMR. In our contacts with appropriate regulatory authorities in both states, we have been assured that the states intend to adopt the MMR this year, but they have not yet proposed these changes. If the states sign the proposed agreements, they are binding themselves to abide by rules not currently in effect or enforceable in their states. They must later approve the rules, which are subject to notice and comment rule making in each state and then subsequent approval by EPA.

I recommend that you sign as requested by the facility, given the limitations set forth above. If and when Texas and New Mexico adopt the MMR with or without modifications, the facility should review the agreements and update them to reflect the appropriate rule changes as they occur.

  
JOHN M. SMITH, Lt Col, USAF  
Regional Counsel

cc: 27 FW/JA (Lt Col Miller)  
AFLSA/JACE (Mr Murad)

<sup>1</sup> EPA's delegation of RCRA authority is found in 40 CFR Part 272. The extent of New Mexico's authorized program is identified in 40 CFR Part 272, Subpart GG (40 CFR §272.1601) and the extent of Texas' authorized program is identified in 40 CFR Part 272, Subpart SS (40 CFR §272.2201).



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS 27th FIGHTER WING (ACC)  
CANNON AIR FORCE BASE, NEW MEXICO

20 MAR 2000

MEMORANDUM FOR 27 FW/CC

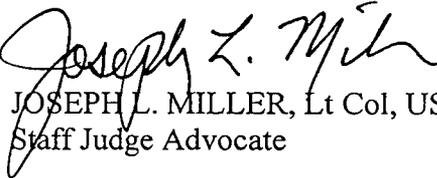
FROM: 27 FW/JA (Capt Hopkins)

SUBJECT: MOU for Explosive Ordnance Disposal Support

I have reviewed the proposed Memorandum of Understanding (MOU) regarding support for Explosive Ordnance Disposal support and find that it is legally sufficient.

Should you have any further questions regarding this document please contact Capt Hopkins at 4-2211.

RECOMMENDATION: 27 FW/CC sign the MOU for Explosive Ordnance Disposal Support.

  
JOSEPH L. MILLER, Lt Col, USAF  
Staff Judge Advocate

## **EXPLOSIVE ORDNANCE DISPOSAL (EOD) Memorandum of Understanding**

### **STATE/REGION/SERVICE MEMORANDUM OF UNDERSTANDING (MOU)**

1. Parties: The parties to this MOU are the Department of Defense (DoD) United States Air Force 27<sup>th</sup> Fighter Wing Civil Engineer Squadron Explosive Ordnance Disposal (EOD) Team located at Cannon Air Force Base, New Mexico and the New Mexico Environment Department / DOD Region VI Environmental Coordinator / New Mexico State Police Department / Curry and Roosevelt County Sheriff Departments / Clovis and Portales Departments of Public Safety

2. Background:

a. DoD Component EOD organizations have personnel specially trained to handle all types of explosives, including improvised explosive devices. Other agencies request assistance from DoD Component EOD organizations in emergencies involving explosives. These situations call for immediate action to abate the safety threat by treatment in place or removal to a safe location for treatment.

b. U.S. EPA's Military Munitions Rule (MR) (62 FR 6622, Feb. 12, 1997) makes it clear that EOD personnel engaged in an explosives or munitions emergency response are exempt from the generator, transporter, treatment, storage, and disposal unit requirements of the Solid Waste Disposal Act (423 USC Sec 6901, et seq.). The standards the MR established govern this MOU, whether the Federal or state government is administering the MR or the Solid Waste Act, in whole or in part.

c. Except for providing temporary storage or treatment of explosives to provide emergency life saving assistance to civilian authorities or to assist law enforcement agencies per established agreements between DOD and the Federal agency concerned, the DOD is prohibited by law (10 USC 2692) from using DOD installations for the storage or treatment of non-DOD owned hazardous materials.

3. Purpose: This MOU, which address the roles and responsibilities of all parties regarding notification responsibilities during emergency EOD response operations, is intended to:

- a. Minimize the risk to public safety from the DoD Component EOD operations.
- b. Maximize the efficiency, safety, and speed of any explosive treatment or retrieval operation.
- c. Establish a framework for mutual assistance and consultation among the parties with respect to Component EOD explosives or munitions emergency response operations

4. Scope: This MOU applies to DoD Component EOD explosive or munitions response operations in the public sector.

5. Definitions:

a. Explosives or Munitions Emergency. A situation, which involves the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, an improvised explosive device (IED), other potentially explosive material or devices, or other potentially harmful military munitions or devices, that creates an actual or potential imminent threat to human health, to include public safety, or the environment, to include property, as determined by an EOD specialist. The EOD specialist may determine that such situations require immediate and expeditious action to control, mitigate, or eliminate the threat.

b. Explosives or Munitions Emergency Response. All immediate response activities by an EOD response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosive or munitions emergency. An explosives or munitions emergency response may include in-place render safe procedures, treatment or destruction of the explosives or munitions or the transport of the items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance does not terminate the explosives or munitions emergency response. Explosives or munitions emergency response can occur on either private or public lands and are not limited to responses to RCRA facilities.

c. Explosive or Munitions Emergency Response Specialist. An individual trained in munitions and explosives render safe procedures, handling, transportation, and destruction techniques. DoD Component explosive and munitions emergency response specialists include EOD and Technical Escort Unit (TEU) personnel.

d. Military Munitions. Per 40 CFR 260.10, all ammunition products and components produced or used by or for DoD or the U.S. Armed Services for national defense and security, including military munitions under the control of the Department of Defense, the U.S. Coast Guard, the U.S. Department of Energy, and National Guard personnel. The term:

(1) Includes: Confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by DoD Components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and any components of such.

(2) Does not include: wholly inert items, improvised explosive devices, and nuclear weapons, devices, and components of such. (However, it does include non-nuclear components of nuclear devices, managed under DOE's nuclear weapons program after all required sanitization operations under the Atomic Energy Act of 1954, as amended, have been completed.)

e. A DoD Component EOD response in the public sector is a response to an event that occurs outside of a military installation.

6. Roles and Responsibilities:

a. DoD Component EOD Organizations are responsible for.

(1) Providing, consistent with the military EOD organization's training and military mission requirements, explosives or munitions emergency response or EOD technical support to other Federal agencies and civil authorities, as requested. Air Force primary mission will not be degraded for base support or contingency operations.

(2) Providing a telephone point of contact for the explosives or munitions emergency response or EOD technical support to civil authorities. Cannon AFB Command Post (505) 784-2253 maintains 24 hour recall roster for the EOD Team.

(3) Providing emergency response military munitions or IED-related information necessary for civil authorities to complete post-incident reports, conduct investigations, and other requirements, as well as meeting other information needs.

(4) Provide resources in response to civil emergencies on a cost reimbursable basis. However, (Immediate Response) for circumstances in which an inability or unwillingness of a requester to commit to reimbursement will not preclude action by Air Force components.

b. Agencies Requesting Assistance are responsible for:

(1) Contacting the appropriate environmental regulatory authority, upon identification of an emergency, regarding emergency notification requirements.

(2) Requesting incident information from the responding EOD organization, as necessary to complete the required reports.

(3) Completing reports and notifications required by the environmental regulatory authority.

(4) Site remediation of any residual contamination, if the object of the emergency response is a non-military explosive or munition. (Note: Although EOD organizations performing explosives or munitions emergency responses are not responsible, for remediation action, if the object of the emergency response is a military munition, then DoD normally retains such responsibility.)

(5) Providing support and security to the site as requested by the responding EOD unit.

c. Environmental Regulatory Authorities:

(1) Provide a telephone point of contact for emergency response calls.

(2) Assist in expediting issuance of emergency permits that may be required.

7. Duration/Amendment/Withdrawal. This MOU will remain in effect until amended or terminated by mutual agreement of the parties. Any party may withdraw from the MOU upon a 60-day written notice to the other parties. (The signatories below represent the Agency involved; therefore, re-negotiation and signature upon change of a signatory is not required.);

FOR THE CIVIL AUTHORITIES/ENVIRONMENTAL REGULATORY AGENCIES/MILITARY  
SERVICE REPRESENTATIVES

*Charles O. Kelm*

Senior Representative for Cannon EOD  
CHARLES O. KELM, Capt, USAF  
Flight Commander EOD

*14 Apr 00*

DATE

*Loyd S. Utterback*

Authorized Representative for Cannon AFB  
LOYD S. UTTERBACK, Colonel, USAF  
27 Fighter Wing Commander

**APR 25 2000**

DATE

*Edward Lopez*

Regional Environmental Coordinator DoD EPA Region VI  
EDWARD LOPEZ

*June 00*

DATE

New Mexico Environmental Protection Agency  
Hazardous & Radioactive Materials Bureau

DATE

New Mexico State Police

DATE

Curry County Sheriff

DATE

Clovis Department of Public Safety

DATE

Roosevelt County Sheriff

DATE

Portales Department of Public Safety

DATE